## REMARKS

It is stated in the Office Communication that pending claims 1-64 are directed to three (3) independent and patentably distinct inventions. Although the Restriction Requirement is traversed for the reasons set forth below, in order to be fully responsive to the Restriction Requirement, Applicant nevertheless elects the claims of Group II, claims 5-14, 18, 22-37, 43-52, 56, and 60-64, drawn to a modified IL-4 mutein receptor antagonist, classified in class 530, subclass 350. Applicants also elect the amino acid as set forth in SEQ ID NO:13 (amino acid residue 38) with traverse.

**Regarding the Restriction Requirement**

The Office Action alleges that the above-identified application contains three (3) inventions, and Applicants are required to elect one group of claims for examination. Although Applicants traverse the requirement for the reasons set forth below, the above election of Group II (claims 5-14, 18, 22-37, 43-52, 56, and 60-64) was made in order to be fully responsive to the Restriction Requirement.

According to the Office Action, Groups I and II are allegedly distinct, for example, because the nucleic acids of Group I are structurally different and can be used to make different polypeptides other than the polypeptides of Group II. As such, for this and other reasons stated in the Office Action, it would be burdensome to search the inventions of Groups I and II together. Group II and III are related as product and process of use. However, according to the Office Action, the process for using the product can be practiced with another product or the product can be used in a different process, thereby Groups II and III are patentably distinct. Group I and III are unrelated because Group I is not based on the process of Group III.

Applicants submit that it would not be a serious burden on the Examiner to examine the claims of Groups I and II together. Contrary to that alleged by the Office Action, the nucleic acids, although they *can* be used to make different polypeptides other than the polypeptides of Group II, they *cannot* as claimed. That is, as claimed the nucleic acids of Group I encode specific

polypeptides, and *not* "different polypeptides" as alleged. As such, it is submitted that a thorough search of the claims would reveal art overlapping and relevant to both Groups. Accordingly, it is respectfully requested that the Examiner reconsider the restriction requirement with respect to the claims of Groups I and II and examine the claims together.

Further, under MPEP §808.02 & §808.03, the Office Action requires that in electing Group II, Applicants are required to elect a single amino acid sequence. See pages 5-6 of the Office Action. Although Applicants traverse the requirement for the reasons set forth below, the above election of SEQ ID NO:13 (amino acid residue 38) was made in order to be fully responsive to the Restriction Requirement.

Applicants submit that the Office has not established it's burden of showing under MPEP §808.02, that: (A) A separate classification with a separate subject for inventive effort, and a separate field of search; (B) A separate status in the art, e.g., a recognition of separate inventive effort by inventors, or citing patents which are evidence of such separate status, and also of a separate field of search; and (C) A different field of search. Thus, the Office has not conclusively demonstrated why Applicants are required to elect a "single amino acid" sequence, when as stated in MPEP §808.02, each of the "single amino acids" has not been shown to have a separate classification, a separate status in the art and/or a different field of search. The Office has *only* provided reasons why the three (3) inventions (Groups I-III) satisfy MPEP §808.02 (A)-(C) and not reasons for why each of the amino acids as recited in the claims of Group II would satisfy MPEP §808.02 (A)-(C). Therefore, each of the amino acid sequences (SEQ ID NOs:10-16) should be examined together. In particular, at least SEQ ID NOs:13 and 14 (amino acid residue 38 and 104) should be examined together.

Applicants also acknowledge that upon allowance of a generic product claim of Group II, the restriction requirement between the product (Group II) and process (Group III) claims will be withdrawn. However, the rejoined claims must meet all the criteria of patentability. Further, the process claims in order to be rejoined, must include all the limitations of the patentable product.

See page 4 of the Office Action and MPEP §821.04, 37 CFR §1.104, 37 CFR §1.116, and 37 CFR §1.312.

No fee is deemed necessary with the filing of this paper. However, the Commissioner is hereby authorized to charge any fees that are required, or credit any overpayments to Deposit Account No. 07-1896 referencing the above-identified attorney docket number. A copy of the Transmittal Sheet is enclosed.

Respectfully submitted,

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